

By Authority



It has pleased His Majesty the King to appoint His Excellency Hon.

HENRY A. P. CARTER.

Envoy Extraordinary and Minister Plenipotentiary near the Government of the United States, as Delegate to the Pan American Congress now assembled in the City of Washington, D. C., to which Conference His Majesty the King was invited to send Delegates by the President of the United States in accordance with a Concurrent Resolution passed by the United States Senate and House of Representatives.

Honolulu, April 8, 1890.

1315-84-11

Mr. R. C. Steward of Waialua, Oahu, has this day been appointed a Notary Public for the First Judicial Circuit of the Kingdom.

L. A. THURSTON,
Minister of the Interior.
Interior Office, March 26, 1890.
1315-21-84-11

Sale of Government Land in Manoa.

On MONDAY, May 19, 1890, at 12 o'clock noon, at the front entrance of Aliolani Hale, will be sold at Public Auction a triangular piece of Kula Land at the junction of the roads leading into Manoa Valley, just outside of the Punahoa Pasture, containing an area of $\frac{1}{4}$ acre, a little more or less.

Upset price \$50.00.

L. A. THURSTON,
Minister of the Interior.
Interior Office, April 9, 1890.
85-41 1315-21

Foreign Office Notice.

FOREIGN OFFICE,
HONOLULU, H. I., April 9, 1890.

GEORGE SHELMEIER, Esq. has been appointed His Hawaiian Majesty's Consul at Iloilo, Panay, Philippine Islands.

JASPER W. WOOD, Esq. has been appointed His Hawaiian Majesty's Consul at Manila, Luzon, Philippine Islands.

GEORGE E. A. CADELL, Esq. has been appointed His Hawaiian Majesty's Consul at Cebu, Philippine Islands.

1315-11-85-31

Sale of Lease of Government Land of Keolu, Kula, Maui.

On MONDAY, May 19, 1890, at 12 o'clock noon, at the front entrance of Aliolani Hale, will be sold at Public Auction the Lease of the Government Land of Keolu, Kula, Maui, containing an area of 28 acres.

Upset price \$25.00 per annum, payable annually in advance.

L. A. THURSTON,
Minister of the Interior.
Interior Office, April 9, 1890.
85-41 1315-21

Sale of Government Lots in Kaupo, Maui.

On MONDAY, May 19, 1890, at 12 o'clock noon, at the front entrance of Aliolani Hale, will be sold at Public Auction the following Government Lots in Kaupo, Maui:

Lot 10—In Kaho, 12 acres; upset price \$80.00.

Lot 12—In Puukoaohu, 39.4 acres; upset price \$10.50.

Lot 13—In Puukoaohu, 3.5 acres; upset price \$10.00.

Lot 14—In Kulanamos, 15.8 acres; upset price \$40.00.

Lot 15—In Puukoaohu, 9.2 acres; upset price \$40.00.

Lot 16—In Pakuku, 35.7 acres; upset price \$107.00.

Lot 20—In Mamala, 50 acres; upset price \$150.00.

Maps can be seen and full particulars obtained of these lands upon application to Christian Andrews, Government School Teacher at Kaupo, Maui, or the Land Office, Honolulu.

L. A. THURSTON,
Minister of the Interior.
Interior Office, April 9, 1890.
85-41 1315-21

Mr. KUOLA KAINUWAI of Kailua, Molokai, has this day been appointed an Agent to grant marriage licenses for Kailua and Kailua, Island of Molokai.

L. A. THURSTON,
Minister of the Interior.
Interior Office, March 31, 1890. 1315-31

C. L. CRABBE has this day been appointed Collector of the Port and Collection District of Hilo, Hawaii, vice L. Severance, resigned.

A. S. CLEGHORN,
Collector-General.
S. M. DAMON,
Minister of Finance.
Honolulu, April 1, 1890. 77-31 1317-21

EDWARD DEVANSHELLE has this day been appointed Assistant Guard for the Port of Honolulu, vice C. L. Crabbe, promoted.

A. S. CLEGHORN,
Collector-General.
S. M. DAMON,
Minister of Finance.
Honolulu, April 1, 1890. 77-31 1317-21

In Re Hilea Sugar Co.

DEPARTMENT OF THE INTERIOR,
HONOLULU, February 28th, 1890.
Whereas the Hilea Sugar Company, has pursuant to the Laws in such case made and provided, duly filed with the undersigned a Petition for the dissolution of the said Corporation, together with a certificate thereto annexed as required by law;

Now therefore, notice is hereby given to any and all persons who have been or are now interested in any manner whatsoever in the said Corporation, that objections to the granting of the said Petition must be filed in the office of the undersigned on or before the 7th day of May, 1890, and that any person or persons desiring to be heard

thereon must be in attendance at the office of the undersigned in Aliolani Hale, Honolulu, at 11 o'clock A. M. of that day, and show cause why said Petition should not be granted.

LOREIN A. THURSTON,
Minister of the Interior.

Hawaiian Gazette

EST MODUS IN REBUS.

TEN-PAGE EDITION.

TUESDAY, APRIL 15, 1890.

The opinion of the Supreme Court printed herewith, has been rendered, upon the request of the Cabinet, for a construction of the rights and powers of the Cabinet, as stated in the Constitution and statutes. The opinion leaves no room for doubt as to the legal status of one man power in this country, and establishes by the highest judicial authority of the land, the principle that no one man, can legally block the business of this country, or control its policy. If such attempt is made, it is done in defiance of the Constitution, the law and the formal opinion of the Supreme Court—in other words, it is revolutionary.

THE POSITION TAKEN BY THE ATTORNEY-GENERAL.

The position taken by the Attorney-General is that one man, because he happens to draw the salary of the Attorney-General for the time being, is superior in power to the other three members of the Cabinet and to the entire Supreme Court; and that with the avowed object of retaining a relative in office, he proposes single-handed, to defy the law, the constitution, the Cabinet and the Court. This announcement of the right of a minority to rule, is one which strikes at the liberties and the rights of every citizen. The people of this country have gone through trials and bloodshed, loss and suffering, to emancipate themselves from autocratic rule, and if we mistake not, the community is not in a frame of mind to accept a new autocrat for an old one.

THE DISAGREEMENT IN THE CABINET CONCERNING THE APPOINTMENT OF THE COLONEL OF VOLUNTEERS.

For several weeks past both the Elele and the Ka Leo have been giving a series of statements concerning what was being done by the Cabinet, of such a nature that they could have been furnished by no one but a member of the Cabinet.

Having reason to believe that the statements made by these papers were either garbled or wholly untrue, we have taken the pains to ascertain a few facts concerning recent Cabinet history, which are as follows:

During the absence of the Attorney-General from the Kingdom, the term of office of the Colonel of Volunteers expired. Under the authority and responsibility placed upon them by the statute, the other three members of the Cabinet refused to re-appoint Mr. V. V. Ashford to the position, upon the ground that he was an unfit man for the position.

Upon the return of the Attorney-General, he took the position that the other three members of the Cabinet were acting unjustly toward his brother; that he was entitled to the position; that the Rifles could not exist without him, and insisted that the other three members should reverse their decision and approve of the appointment. This they refused to do. The Attorney-General thereupon announced his intention of opposing the majority of the Cabinet. In accordance with the terms of the statute, the majority thereupon decided to appoint Major H. F. Hebbard to the position, the Attorney-General voting no. The other members of the Cabinet thereupon inquired of Mr. Ashford whether he proposed to carry his opposition to the extent of advising the King not to sign Mr. Hebbard's commission. He refused to say whether he would so advise or not, stating that when the time came he would advise as he thought fit.

Upon the disagreement reaching this stage the other members requested Mr. Ashford to withdraw from the Cabinet, as he was unwilling to remain and work harmoniously with them.

Mr. Ashford refused to resign, and stated that so far from resigning, he proposed to remain and prevent by every means in his power the unwise and unjust action proposed by the other members in attempting to appoint any person except Mr. V. V. Ashford as colonel of the volunteers.

A Cabinet meeting was thereupon

held with the King, at which three members of the Cabinet advised him to sign Major Hebbard's commission, and the Attorney-General advised him not to. The King thereupon replied that he should refuse to do any act upon the advice of the Cabinet unless they were unanimous, which position the Attorney-General approved of and supported. The majority of the Cabinet thereupon submitted the question to the Supreme Court, as to whether the majority or the minority of the Cabinet should control. The judges replied that the only logical conclusion was that the majority should rule, and that in any case where Cabinet action was required, or the law required the King to act upon the advice of the Cabinet, a majority of the Cabinet was sufficient.

This opinion of the Court has been published by the ADVERTISER in full. The Cabinet thereupon waited upon the King again, presented the opinion of the Court to him, and Messrs. Damon, Austin and Thurston again advised him to sign Major Hebbard's commission.

The Attorney-General again advised him not to, and further advised him to refuse to pay any attention to the advice of the Supreme Court, telling him that the opinion of the Judges of the Supreme Court was of no more importance than that of any other three men.

The King thereupon refused to sign the commission.

Such are the plain unvarnished facts concerning the Colonely question.

UNEQUAL TAXATION.

One of the principal tasks which ought to occupy the coming Legislature is the matter of taxation. It ought to be approached with the double object, first of increasing the revenues of the country, and second of shifting the burden of taxation from the poor to the rich. The article by W. R. Castle, which we lately published, showed conclusively that the burden of taxation falls, not where it ought to fall, but in all countries, on those who are least able to bear it. It showed also that the case is not largely different here from what it is in other countries. Human nature is the same everywhere. We do not change our manners when we change our states. People will try to avoid paying their just dues to the government in Honolulu, as well as everywhere else. It is as true here as in the United States, that a large part of the property of the rich escapes taxation. How to meet and remedy this evil is a problem which ought to receive the most sedulous attention of our legislators.

It is easier, however, to point out an evil than to devise a remedy. And in expressing ourselves so decidedly on this topic we may be laying ourselves open to the charge of mentioning a very old and notorious evil, without intimating how the evil can be disposed of. Such newspaper writing is cheap, so cheap indeed that the public might well be excused for thinking it not bonafide. It is, however, at least a service to call attention to the evil, to lay the finger on the sore spot, to rouse the public to the necessity of action. Such a general appeal to the public always precedes the propounding of specific schemes. It is a waste of energy to devise experimental remedies, unless the public is already convinced that it is advisable to take some action. This evil of unequal taxation is so old, so deeply rooted, so natural a consequence of the tendencies of human nature itself, and of our whole economical system, that the majority are disposed to think action in the premises entirely useless, and as chimerical and enthusiastic as plans to abolish poverty or effect a complete reform in human nature.

We make no pretence to being in possession of any sovereign remedy for the inequalities of taxation, but we are enthusiastic enough to believe that some remedy exists or can be devised, and that men who have any influence in shaping legislation ought really to devote earnest thought to this problem with a view to embodying their results in the form of law. Our own proposals may seem to many too radical. It is worth considering, however, whether a graduated property and income tax would not be at once feasible and calculated to realize the end in view. We are aware how great are the difficulties which stand in the way of any kind of income tax. They have generally led to the abolition of all such attempts to raise revenue. On the other hand, it is generally admitted that the tax is the most

equitable which can be devised. And it may be worth while to experiment with it here.

The objections which apply with so much force against an income tax, do not affect our other proposition, namely, to establish a progressive tax on land, and for that matter on other forms of property. By a progressive tax we mean of course a tax which increases its rate in proportion to the amount of property returned by a single individual. For example, property under a certain valuation might pay three-quarters of one per cent. The excess above this valuation might be taxed at one per cent. up to another limit. And all above this second limit might pay at the rate of two per cent. and so on. Thus a rich merchant might pay on \$10,000 three-quarters of one per cent; on a second ten thousand, one per cent; on a third, one and a half; on the next hundred thousand, two, etc. This system would, as far as it went, shift the burden of taxation from the poor to the rich, without doing the latter any injustice. It is certainly not likely that such a proposition will find favor with the capitalist class, but that is not to be expected. Capitalists would not be human if they did not decry so novel a proposition as unjust and prejudicial to their rights. But the injustice of it does not seem clear. It simply proposes that the rich, who are abundantly able to bear a larger share of the taxes, shall assume a proportion corresponding to their superior ability.

A progressive land tax will certainly be deemed as socialist. We must admit that it is tainted with the moderate socialism which is growing more powerful in every part of the world and which is shaping legislation every year. It is not, however, socialist in any more dangerous sense. Neither is it doctrinaire. While certainly radical, it is not entirely new. We believe it has been tried elsewhere and not been discarded. At any rate our opportunities here for judicious and careful experiment are unrivaled, and it will do no harm to try now and then a new thing. Perhaps in this way we can pay the debt which we owe the western world for our civilization.

TO THE ADVERTISING PUBLIC.

Understanding that Mr. J. C. Lane is soliciting advertisements for a foreign directory, we desire to make a statement of facts regarding him and his visit here. During March Mr. Lane entered into an engagement in San Francisco with the manager of the Hawaiian Gazette Company to canvass in that city for advertisements to be inserted in the forthcoming Hawaiian Guide Book, receiving full details of the service required of him, which he accepted and agreed to execute on certain stipulated terms.

Without previous notice of any intention to abandon the service he had voluntarily accepted, he appears here in Honolulu with the avowed purpose of canvassing for advertisements for a new edition of a directory of this city and group, to be printed in San Francisco, his principal object evidently being to embarrass and retard the publication of the new Guide Book. By misrepresentations he may be able to deceive merchants and others regarding the object of his soliciting advertisements at this particular time, as the publishers of the directory have had no intention of issuing a new edition this year.

It is well known that the directory for which he canvassed here two years ago, contained many errors and omissions, estimated at several hundred, which rendered it of very little value here or abroad.

That it was largely made up of Chinese names.

That its statistical matter was copied largely, perhaps wholly, from Thurman's Almanac and other local sources.

That it did not contain one half the number of voters on the islands, though it did have nearly all the Chinese cooks, stewards and laborers in the city.

That not a dollar of the cost of printing and binding the books was spent here.

And that its publication, so far as it purports to be a correct directory of this group, is generally believed to be an imposition and fraud.

It will also be remembered that the canvasser for this directory, published in 1888, a very insulting letter about one of our most respected residents, Mr. R. W. Meyers of Molokai, and after being compelled to retract, Mr. Lane or the publishers emphasized the insult to Mr. Meyers, by publishing a false statement concerning him in the directory.

And now comes this foreign itinerant trader of our citizens, and solicits their patronage to assist him in getting up another directory, probably of the same sort, and characterized with the numerous and unpardonable imperfections which the former book contains, chiefly on account of being compiled by strangers and irresponsible men.

HAWAIIAN GAZETTE CO.

SUPREME COURT OPINION

Upon an Important Constitutional Question.

THE COURT DECIDES THAT THE MAJORITY OF THE CABINET SHALL CONTROL.

One Man Power Declared to Have no Legal Footing in Hawaii.

DEPARTMENT OF THE JUDICIARY,
HONOLULU, H. I., April 10, 1890.
To His Excellency L. A. Thurston, Minister of Interior.

SIR: In replying to the question submitted by you on behalf of the Cabinet to the Justices of the Supreme Court we will first set forth at large your letter.

"The Cabinet respectfully request your opinion upon the following question:

STATEMENT OF FACTS.

"In accordance with Chapter 25 of the Laws of 1888, the commissioned officers of the Hawaiian Volunteers twice nominated Mr. V. V. Ashford for the office of Colonel of the Hawaiian Volunteers.

"That such nominations were disapproved of by a majority of the Cabinet.

"In accordance with the powers conferred upon the Cabinet by said Act, the Cabinet on the 28th of March, 1890, presented to His Majesty for signature, a commission appointing Mr. H. F. Hebbard to the position of Colonel of the Hawaiian Volunteers.

"That thereupon three of the members of the Cabinet advised His Majesty to sign such commission.

"That His Majesty thereupon replied to the Cabinet that 'I have decided that I cannot adopt any recommendation made by My Ministers unless they are a unit in advising the same,' and declined to sign such commission.

"That one member of the Cabinet claims that the position taken by His Majesty is correct and lawful.

"That the other three members of the Cabinet claim that the position taken by His Majesty involves the assertion of a principle subversive of Responsible Constitutional Government, as it would enable one member of the Cabinet to absolve himself of his policy and action while leaving the responsibility upon the entire Cabinet.

"The majority of the Cabinet therefore claim that, wherever by the Constitution or Laws, the Cabinet is obliged to take action, or the King is required to act upon the advice of the Cabinet, the meaning of such Constitution or Statute requirement is, that the King shall act upon the advice of a majority of the Cabinet, or that a majority of the Cabinet shall decide and govern the action to be taken by the Cabinet.

QUESTION.

"Do the various Statutes and Constitutional provisions, referring to action to be taken by the Cabinet, and requiring the King to act upon the advice of the Cabinet, require that such action or such advice should be by all the members of the Cabinet, or is it sufficient that such action be taken or advice given by a majority of the Cabinet?"

The question in this letter involves an interpretation of clauses in Section 16 of the Act of 1888 "relating to the military forces of the Kingdom," which provides that "a majority of the Cabinet" having disapproved of the nomination made for a Colonel of Volunteers, the Minister of Foreign Affairs may with "the approval of the Cabinet" present the name of another competent person to His Majesty.

What is required or intended by the word "Cabinet?" Is it something different from a "majority of the Cabinet?" We find in some other statutes of the session of 1888 examples of the use of these terms: thus in Section 1 of Chap. 65 it is said "the Minister of the Interior with the concurrence of a majority of the Cabinet," hereafter designated "the Government," is authorized to enter into certain contracts respecting railroads. In Section 4 of Chapter 62 it is provided that the location, etc., of railroads "shall be submitted to the Cabinet for their approval, and such approval shall be certified by the signatures of a majority of the members of the Cabinet," while in Section 1 of this Act the Minister of the Interior is authorized to do an act "by and with the consent of the Cabinet." The same phrase is used in Chapter 16, Chapter 60, Chapter 61 and in Chapter 71. In Chapter 71 it is "with the approval of the Cabinet." In one case only do we find it expressed that the action of the Cabinet must be unanimous, in Chapter 17, Section 1—"The Minister of the Interior with the unanimous concurrence of the Cabinet is hereby authorized" to contract for a certain inter-island cable telegraph.

The first two quotations may be considered to be legislative definitions of what may be the "Cabinet" for the purpose of an act of the Cabinet, viz: that the majority is the Cabinet, and the last quotation expresses the exception when it is intended that the four members of the Cabinet must concur: the sole exception that we have found in these statutes.

In the Constitution a Cabinet of four members is provided for by Article 41. In Articles 27, 31, 42, 78 and 90 is prescribed what the "Cabinet" may or shall do. In Article 80 the phrase "Cabinet Council" is also twice employed. In only one article are the members of the Cabinet treated individually, in Article 15, which prescribes that money shall not be drawn from the Treasury without legislative appropriation except in the event of certain emergencies, and then "not without the concurrence of all the Cabinet and of a majority of the whole Privy Council."

Our view to be drawn from these citations is that the action of the Cabinet is designed to be as a body and not as individuals. The individuality of the members is merged in the Cabinet or Cabinet Council.

The political theory of a government having a responsible Ministry is that the members composing the Ministry entertain harmonious views respecting the general policy on which the Government shall be conducted and respecting all important measures. We must look, if we seek for precedents outside of our own country, to Great Britain.

The written Constitution of the United States does not provide for a Cabinet, and

a Cabinet does not govern there, although the heads of departments are popularly termed the Cabinet. The President is himself responsible in the exercise of his functions. In regard to Great Britain then we may safely say that it is a thing unknown in theory and unheard of in fact that a majority and a minority of the government should submit their advice to the sovereign. A member of the government not of the same opinion with his colleagues would either silently acquiesce or if the issue were important would withdraw from the Cabinet. The Cabinet could present but a single opinion, formulated by the Prime Minister.

It is evident that no judicial opinions bearing directly upon the case submitted can be found for no such case could be presented to a Court in England or America. But as the Cabinet is here established by the Constitution and empowered by statutes, the Justices of the Supreme Court, being duly asked, may give their interpretation. It seems to us to bear only one reasonable construction, and that is that the advice and consent or approval of the Cabinet must be single, but not necessarily unanimous.

The most eminent publicists, such as Grotius, Savigny, Domat, base the authority of the majority on Natural Law. Boyer, an approved writer on universal Public Law, quotes Savigny as saying "that the rule of law making the will of the majority that of the body in its cooperative capacity, is founded on Natural Law. For to require unanimity would be to impede the acts and will of the body corporate; and the rule is preserved in the Roman Law and adopted by the Canon Law." Such quotations could be multiplied.

In a Cabinet comprising four members an equal division of opinion is not infrequently a political remedy. In the case of one member of the four being at variance with his three colleagues, we can find no other rule or principle than that the majority opinion is the opinion of the Cabinet, save in the expressly expected cases.

In the statute upon which this controversy arises, it does not appear to us that the use of the terms "a majority of the Cabinet" imports that the other expression "with the approval of the Cabinet" must be of the four members unanimously.

The provision in section 7 of the Act, that the name of the person elected to be colonel by the commissioned officers of the Hawaiian Volunteers, shall be presented to His Majesty for commission, unless a majority of the Cabinet disapprove, is a concession to the wishes of the electors, who are presumed to be capable of making a fit choice. Even if such person should not meet the approval of one or even two of the Cabinet, his name must be presented to the King for commission. Only if three of the Cabinet object is their election nullified. So also when, on the result of a second election, a second certification of a person to be commissioned as colonel is made, the Minister of Foreign Affairs is obliged to present this name for commission, although two of the Cabinet should object and, as before, only if three of the Cabinet disapprove is this second election nullified. Thus far the Legislature has provided that the voice of the officers shall be respected in the selection of the colonel under whom they are to serve. But this goes no further. When a majority of the Cabinet disapprove of the officers' nominee, they then are to select a competent person to be commissioned as colonel. The two matters are distinct; one is the disapproval of a nominee of the officers of the volunteers, and the other is the selection of a person (without reference to the action of the officers) competent to act as their colonel. There is then nothing in the words of section 10, prescribing that a majority of the Cabinet may disapprove a nominee, and thereafter the Minister of Foreign Affairs, with the approval of the Cabinet, may present another name for commission requiring that the entire Cabinet concur. It should have the same construction which must be given in all other cases. The only coloring in support of a different view, is the use of the two terms in the same Act. But we have shown a reason for the use of the word majority, namely, that not two members are sufficient to set aside the election by the officers. The "Cabinet" imports a majority thereof, there being no exceptional and express provision that it must be the act of the four members.

We, therefore, answer the question of the Cabinet, that our construction of the statutes and constitutional provisions relating to action to be taken and advice to be given to the Sovereign by the Cabinet, is that such action and such advice is to be that of the majority thereof.

Your obedient servants,
A. F. JUDD,
LAWRENCE McCULLY,
RICH. F. BICKERTON.

Picnic at Aiea.

The members of the choir and the Sunday school of the second congregation of St. Andrew's Cathedral with friends, in all, numbering one hundred and seventy-one persons had a picnic at Dr. J. S. McGrew's residence, Aiea, near Pearl Harbor on Saturday, by invitation of the Rev. Alex. Mackintosh the popular and respected pastor of that congregation. The merry party went to Aiea on a special train kindly provided by Hon. M. P. Robinson, leaving town at 10:25 A. M. Arriving at the grounds, the party amused themselves, to about 1 o'clock when a most elegant and bountiful lunch provided by Mr. and Mrs. Mackintosh was served under the trees. It is needless to say that all present did ample justice to it. Unfortunately about 2 o'clock it commenced to rain heavily, and this somewhat marred the day's outing. The party returned to Honolulu on a special train at 5 o'clock.

The Late Simon Hardcastle.

Mr. John H. Paty attorney for Henry and James Hardcastle, the surviving brothers of the late Simon Hardcastle, forwarded to them on the last steamer to England where they reside, their share of their brother's estate amounting to \$34,000. Mr. Paty has also ordered a tombstone to be placed over the deceased's grave which will contain the following inscription: "Sacred to the memory of Simon Hardcastle, son of Thomas and Margaret Hardcastle of Skelton upon Ure, near Ripon, Yorkshire, England, who died in Honolulu, March 5, 1889, aged 64 years."

Advertise your wants in the DAILY PACIFIC COMMERCIAL ADVERTISER.